

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
EUREKA DIVISION

UNIVERSAL NORTH AMERICA  
INSURANCE COMPANY,

Plaintiff,

v.

ELECTROLUX HOME PRODUCTS, INC.,  
et al.

Defendants.

Case No. 16-cv-06884-RMI

**PRETRIAL ORDER**

All previously set trial and pretrial conference dates are VACATED.

**PRETRIAL SCHEDULE**

TRIAL DATE: November 5, 2018, at 9:00 A.M., at the Federal Courthouse at 3140 Boeing Avenue in McKinleyville, California.

JURY [X ] COURT [ ]

TRIAL LENGTH: No more than [ 5] days.

PRETRIAL CONFERENCE DATE: October 15, 2018, at 2:30 p.m. at the Federal Courthouse at 3140 Boeing Avenue in McKinleyville, California

**PRETRIAL INSTRUCTIONS**

**A. PRETRIAL MOTIONS**

1. **Chambers copies** of each electronically-filed document must include on each page the running header created by the ECF system. Chambers copies must be delivered to the Clerk's Office in Eureka by noon the day following the filing of the document. All

documents must be stapled or bound by a two-pronged fastener, and all exhibits to declarations or requests for judicial notice must be tabbed.

2. **Footnotes** appearing in font smaller than the 12-point font required for the text will be stricken, see Civil L. R. 3-4(c)(2), as will footnotes that are so numerous as to be clearly designed to defeat the page limits found at Civil L. R. 7-2 - 7-4.
3. Absent leave of court, motions pursuant to *Daubert v. Merrill Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), challenging the reliability of expert testimony, shall be noticed for hearing no later than the date dispositive motions will be heard. Irrespective of the hearing date, the briefs shall be filed in accordance with Civil L. R. 7-2 - 7-5, that is, on a 35-day briefing schedule.
4. **Motions in limine** are limited to motions to exclude specific items of evidence on a ground and upon such authority as would be sufficient to sustain an objection to such evidence at trial. The court will not generally consider a motion presenting a purely legal issue in the guise of a motion in limine.
5. **Confidential and/or sealed documents** shall be handled in accordance with this court's standing order and Civil L.R. 79-5, both of which the parties shall consult before moving for a protective order or requesting a sealing order. Requests to seal documents used in conjunction with dispositive motions are rarely granted and then only upon a showing of the most compelling of reasons. Chambers copies with confidential materials will be handled like all other chambers copies of materials without special restriction, and will typically be recycled, not shredded. If the parties wish to dispose of documents filed under seal in some other way, they must so note in their sealing motion and pick up the documents within five court days of the disposition of the motion.

## **B. FINAL PRETRIAL CONFERENCE**

1. The pretrial conference shall be attended by lead trial counsel and/or the unrepresented party who will try the case.

- 1       2. **Not less than 35 days** prior to the pretrial conference, all counsel and/or unrepresented  
2       parties shall meet and confer regarding preparation of the joint pretrial statement.
- 3       3. **Not less than 21 days** prior to the pretrial conference, counsel and/or unrepresented parties  
4       shall:
  - 5       a. Serve and file a **joint** pretrial statement. (Separately filed statements will not be  
6       accepted by the court and monetary sanctions shall be imposed upon the party failing  
7       to cooperate in the preparation of a joint statement).
- 8       The pretrial statement shall include the following:
  - 9       i. A brief description of the substance of the claims and defenses which remain to  
10      be decided.
  - 11      ii. A detailed statement of all relief sought, itemizing all elements of damages  
12      claimed.
  - 13      iii. A statement of all relevant undisputed facts to which the parties will stipulate  
14      for incorporation into the trial record without the necessity of supporting  
15      testimony or exhibits.
  - 16      iv. A statement of all relevant disputed facts which remain to be decided.
  - 17      v. A statement of stipulations requested or proposed.
  - 18      vi. A brief statement of disputed points of law concerning liability and relief.  
19      Legal argument on these points shall be reserved for the trial briefs.
  - 20      vii. A statement of whether bifurcation or a separate trial of specific issues is  
21      desired and feasible.
  - 22      viii. A statement summarizing the status of settlement negotiations and indicating  
23      whether further negotiations are likely to be productive.
- 24      b. Serve and file trial briefs (not to exceed 25 pages), which shall specify each cause of  
25      action and defense remaining to be tried along with a statement of the applicable legal  
26      standard (no opposition shall be filed);
- 27      c. Serve and file no more than ten motions in limine, which shall be filed in one  
28      document not to exceed 25 pages;

- d. Serve and file a list of deposition excerpts for witnesses who will not testify in person, (specifying the witness, page and line references) and other discovery responses that will be offered at trial;
  - e. Serve and file a list of all witnesses to be called at trial, in person or by deposition, other than solely for impeachment or rebuttal, with a brief statement describing the substance of the testimony to be given;
  - f. Serve and file a numerical list of exhibits that will be offered as evidence in a party's case in chief in support of a claim or defense, with a brief statement describing the substance and purpose of each exhibit and the name of the sponsoring witness;
  - g. Exchange exhibits which shall be premarked with an exhibit sticker (example attached), tabbed and in binders. Plaintiff shall use numbers (1, 2, 3, etc.) and defendant shall use numbers preceded by a letter (A-1, A-2, A-3, etc.). Additional parties shall also use a letter preceding numbers (B-1, B-2, B-3, or C-1, C-2, C-3, etc.).
  - h. Submit two sets of all premarked exhibits to the Clerk's Office in Eureka (exhibits are not filed);
  - i. Serve and file any request regarding the treatment of confidential or sealed documents.
  - j. Serve and file proposed joint voir dire questions and joint jury instructions for cases to be tried by jury. Any voir dire questions and jury instructions which the parties cannot agree upon may be submitted separately. An electronic copy of these documents shall be e-mailed to [rmipo@cand.uscourts.gov](mailto:rmipo@cand.uscourts.gov).
  - k. Serve and file proposed findings of fact and conclusions of law for cases or claims to be tried by the court, and a proposed order thereon. An electronic copy of these documents shall be e-mailed to [rmipo@cand.uscourts.gov](mailto:rmipo@cand.uscourts.gov).
  - l. Serve and file a proposed verdict form which contains no reference to submitting party. An electronic copy of these documents shall be e-mailed to [rmipo@cand.uscourts.gov](mailto:rmipo@cand.uscourts.gov).
4. No party shall be permitted to call any witness or offer any exhibit in its case in chief that is not disclosed in these pretrial filings without leave of court and for good cause.

1        5. **Not less than 14 days** prior to the pretrial conference, counsel and/or unrepresented parties  
2        shall serve and file any opposition to a motion in limine, any counter deposition  
3        designations, and any disputed voir dire questions and jury instructions. No replies shall  
4        be filed. All motions shall be heard at the pretrial conference unless otherwise ordered.  
5        The parties shall not file separate objections, apart from those contained in the motions in  
6        limine, to the opposing party's witness list, exhibit list or discovery designations.

7  
8        **C. JURY TRIAL**

9        Jury selection shall proceed as follows: The Jury Commissioner will summon 35  
10       prospective jurors. The Courtroom Deputy will select their names at random and seat them in the  
11       courtroom in the order in which their names are called. Voir dire will be conducted of sufficient  
12       venire members so that eight will remain after all peremptory challenges and an anticipated  
13       number of hardship dismissals and cause challenges have been made.

14       Voir dire shall be conducted by the court. Counsel will be permitted brief follow-up voir  
15       dire after the court's questioning.

16       The court will take cause challenges and discuss hardship claims in chambers. The court  
17       will inform counsel which hardship claims and cause challenges will be granted, but will not  
18       announce those dismissals until the selection process is completed. Peremptory challenges will be  
19       made in chambers. Each party shall be limited to three peremptory challenges. Any party passing  
20       on a challenge will be deemed to have waived that challenge. The court will strike at one time  
21       those with meritorious hardship claims, those excused for cause, and those challenged  
22       peremptorily, and then seat the first eight people remaining in numerical order.

23       The following jury instructions from the Ninth Circuit Manual of Model Jury Instructions  
24       Civil (2007 Edition) shall be given absent objection: 1.0 - 1.4, 1.6 - 1.14, 1.18 - 1.19, 3.1 - 3.4.  
25       Counsel shall submit a **joint set** of these instructions along with case specific instructions using  
26       the Ninth Circuit Manual where appropriate. Any instructions on which counsel cannot agree may  
27       be submitted separately. Each instruction shall be typed in full on a separate page with citations to  
28       the authority upon which it is based **and** a reference to the party submitting it. A second blind

copy of each instruction shall also be submitted omitting the citation to authority, the reference to the submitting party, and the title of the instruction.

Should a daily transcript and/or realtime reporting be desired, the parties shall make arrangements with Debra Campbell, Court Reporter Supervisor, at (415) 522-2079 or Debra\_Campbell@cand.uscourts.gov, at least 14 calendar days prior to the trial date.

#### **D. TRIAL SCHEDULE**

The court's trial schedule is 9:00 a.m. to 12:00 p.m., and 1:00 p.m. to 4:00 p.m., with two fifteen-minute breaks. The court conducts trial five days a week.

#### **E. PROCEDURE FOR AMENDING THIS ORDER**

No provision of this order may be changed except by written order of this court upon its own motion or upon motion of one or more parties made pursuant to Civil. L. R. 7-11 with a showing of good cause. Parties may file a formal brief, but a letter brief will suffice. The requesting party shall serve the opposing party on the same day the motion is filed and the opposing party shall submit a response as soon as possible but no later than four days after service.

If the modification sought is an extension of a deadline contained herein, the motion must be brought before expiration of that deadline. **The parties may not modify the pretrial schedule by stipulation.** A conflict with a court date set after the date of this order does not constitute good cause. The parties are advised that if they stipulate to a change in the discovery schedule, they do so at their own risk. The only discovery schedule that the court will enforce is the one set in this order.

**IT IS SO ORDERED.**

Dated: June 29, 2018

  
Robert M Illman  
United States Magistrate Judge

United States District Court  
Northern District of California

1	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA
2	Case #:	Case #:	Case #:
3	Plntf Exhibit	Plntf Exhibit	Plntf Exhibit
4	No	No	No
5	Date Admitted:	Date Admitted:	Date Admitted:
6	By:	By:	By:
7	Gloria Knudson, Deputy Clerk	Gloria Knudson, Deputy Clerk	Gloria Knudson, Deputy Clerk
8	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA
9	Case #:	Case #:	Case #:
10	Plntf Exhibit	Plntf Exhibit	Plntf Exhibit
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14	Gloria Knudson, Deputy Clerk	Gloria Knudson, Deputy Clerk	Gloria Knudson, Deputy Clerk
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16	Case #:	Case #:	Case #:
17	Plntf Exhibit	Plntf Exhibit	Plntf Exhibit
18	No	No	No
19	Date Admitted:	Date Admitted:	Date Admitted:
20	By:	By:	By:
21	Gloria Knudson, Deputy Clerk	Gloria Knudson, Deputy Clerk	Gloria Knudson, Deputy Clerk
22	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA
23	Case #:	Case #:	Case #:
24	Deft Exhibit No	Deft Exhibit No	Deft Exhibit No
25	Date Admitted:	Date Admitted:	Date Admitted:
26	By:	By:	By:
27	Gloria Knudson, Deputy Clerk	Gloria Knudson, Deputy Clerk	Gloria Knudson, Deputy Clerk
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